

Before the
Administrative Hearing Commission
State of Missouri

DORRIE WISE,)	
)	
Petitioner,)	
)	
vs.)	No. 14-1773 RS
)	
DIRECTOR OF REVENUE,)	
)	
Respondent.)	

DECISION

We dismiss the appeal filed by Dorrie Wise because we lack jurisdiction to hear it.

Procedure

On November 7, 2014, Wise filed a complaint challenging multiple decisions by the Director of Revenue (Director) to reject her offers in compromise. On December 9, 2014, the Director filed a motion to dismiss the complaint. Wise filed a response to the motion on December 23, 2014.

Because the motion to dismiss contains matters outside the pleadings, we consider it a motion for summary decision.¹ Pursuant to 1 CSR 15-3.446(6)(A), we may decide a motion for summary decision if a party establishes facts that entitle that party to a favorable decision and no party genuinely disputes such facts. Those facts may be established by stipulation, pleading of the adverse party, or other evidence admissible under the law.² The Director's motion is accompanied by a custodian of records affidavit with certified records of the Department of

¹ 1 CSR 15-3.436(4)(A). All references to "CSR" are to the Missouri Code of State Regulations as current with amendments, included in the Missouri Register through the most recent update.

² 1 CSR 15-3.446(6)(B).

Revenue (“the Department”) attached. Based on these records, and the allegations and attachments to Wise’s complaint, we find the following facts to be undisputed.

Findings of Fact

1. On November 21, 2012, Wise submitted an offer of compromise to the Director. On December 19, 2012, the Director rejected this offer of compromise.
2. On January 3, 2013, Wise submitted a second offer of compromise to the Director. On April 1, 2013, the Director rejected this offer of compromise.
3. On April 26, 2013, Wise submitted a third offer of compromise to the Director. On August 22, 2013, the Director rejected this offer of compromise.
4. On October 3, 2013, Wise submitted a fourth offer of compromise to the Director. On November 15, 2013, the Director rejected this offer of compromise.³
5. On November 7, 2014, Wise filed a complaint with this Commission, appealing the Director’s rejections of her offers of compromise.

Conclusions of Law

We have jurisdiction over complaints appealing final decisions of the Director.⁴ Wise is correct in her assertion that § 32.378.1 allows the Director to agree to compromise any tax, interest, penalties, or additions under certain circumstances, such as doubt as to liability or doubt as to collectibility. However, § 32.378.6 provides:

The director’s decision to reject or accept an offer of compromise under this section shall be based on consideration of all the facts and circumstances, including the taxpayer’s record of overall compliance with the tax laws. **Notwithstanding any provision of law to the contrary, the director’s decision shall not be subject**

³ Wise alleges she has unsuccessfully negotiated “over four times” with the Director in pursuit of a compromise; however, the records provided to us indicate that the Director has only received these four rejected offers. Petitioner’s Exhibits B and E contain signed Offers in Compromise dated 1/31/14 and 10/18/14, respectively, but we have no evidence they were received and rejected by the Director.

⁴ Section 621.050.1, RSMo 2000. Statutory citations are to the RSMo Supp. 2013, unless otherwise indicated.

to review by the administrative hearing commission or any court.

(Emphasis added).

An appeal from the Director's various rejections of her offers of compromise are certainly at the heart of Wise's complaint, as is her desire to leverage a compromise with the Director on the basis of having allegedly achieved a compromise with the IRS. In fact, Wise's request for relief states:

WHEREFORE, PETITIONER PRAYS FOR RELIEF IN THE FORM OF AN OFFER IN COMPROMISE SIMILAR TO THE OFFER ACCEPTED BY THE INTERNAL REVENUE SERVICE. [⁵]

However, we do not have the authority to superintend the Director's procedures.⁶ Our authority is limited to deciding the cases placed within this Commission's jurisdiction by statute.⁷ "[A]n administrative agency's authority is limited to that granted by statute."⁸ Wise's reply cites three decisions of the Missouri Supreme Court in which it reviewed decisions of this Commission; however, none of them are related to the offer of compromise procedure and the authority vested in the Director to apply it. Because § 32.378.6 provides that the Director's decision rejecting an offer of compromise shall not be subject to review by this Commission, we have no jurisdiction, and we may take no action other than to exercise our inherent power to dismiss the case.⁹

SO ORDERED on January 5, 2015.

\s\ Sreenivasa Rao Dandamudi

SREENIVASA RAO DANDAMUDI
Commissioner

⁵ Petitioner's Complaint.

⁶ *Missouri Health Facilities Review Committee v. Administrative Hearing Comm'n*, 700 S.W.2d 445, 450 (Mo. banc 1985).

⁷ *See Missouri Coalition for the Environment v. Herrmann*, 142 S.W.3d 700, 701 (Mo. banc 2004).

⁸ *Lagares v. Camdenton R-III School Dist.*, 68 S.W.3d 518, 526-27 (Mo. App. W.D. 2001).

⁹ *See Oberreiter v. Fullbright Trucking*, 24 S.W.3d 727, 729 (Mo. App. E.D. 2000).